

FINAL STATEMENT OF REASONS

Current Residential Care Facilities for the Elderly (RCFE) regulations include specific requirements for admission agreements between RCFE licensees and residents, such as services made available, payment provisions, modification conditions, refund conditions and other policies and procedures that pertain to the admission agreement.

These proposed regulations will enact the following specified legislation:

(1) Senate Bill (SB) 1898, Statute of 2002; (2) SB 211, Statute of 2003; (3) SB 540, Statute of 2003; (4) SB 1662, Statute of 2004; (5) Assembly Bill (AB) 179, Statute of 2005; (6) SB 141, Statute of 2005; (7) AB 949, Statute of 2007; (8) SB 781, Statute of 2009; and (9) AB 261, Statute of 2013.

These regulations will expand requirements for admission agreements, increase understanding of the roles and responsibilities of residents and licensees and empower residents and prospective residents with the knowledge they need to make informed decisions about their care. These agreements are an important consumer protection for RCFE residents and prospective residents.

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 87101(a)(2) and Handbook

Specific Purpose:

This regulation and handbook reference are adopted to define admission agreement and reference definition in statute. The section has been numbered to Section (a)(2) for the purpose of continuity and pagination in numbering.

Factual Basis:

It is necessary to adopt this regulation and handbook reference in order to implement SB 211, which added Health and Safety (H&S) Code section 1569.880. This statute defines an admission agreement as all documents that a resident or his or her representative must sign at the time, or as a condition of, admission to a RCFE.

Section 87101(a)(3) through Section (a)(10)

Specific Purpose/Factual Basis:

These sections have been renumbered for the purpose of continuity.

Section 87101(b)(2) and Handbook

Specific Purpose:

This regulation is amended to include in the definition of basic services H&S Code section 1569.312 for purposes of clarity.

Factual Basis:

This regulation is necessary to be consistent with H&S Code section 1569.312, which defines basic services required to be provided by the facility. The basic services required include:

- a. Care and supervision.
- b. Assistance with activities of daily living.
- c. Helping residents gain access to appropriate services in the community.
- d. Being aware of the resident's general whereabouts.
- e. Monitoring activities of residents to ensure their general health, safety and well-being.
- f. Encouraging residents to maintain and develop their maximum functional ability planned activities.

Section 87101(c)(10)

Specific Purpose/Factual Basis:

This amendment is for the purposes of clarity and consistency in the renumbering of Section 87101(c)(2) to Section 87101(c)(3).

Section 87101(h)(6)

Specific Purpose:

This regulation is amended to update the correct department name with oversight for Hospice and Home Health Agencies, i.e., formally the California Department of Health Services, to the Department of Public Health.

Factual Basis:

This amendment is for the purpose of clarity to correct the licensure responsibility change from the California Department of Health Services, who no longer has licensing oversight responsibilities for Hospice and Home Health Agencies. These responsibilities have been transferred to the California Department of Public Health.

New Section 87101(n)(4) and Handbook

Specific Purpose:

This regulation and handbook reference are adopted for clarity and consistency in the meaning of "nonrecurring lump sum assessment," as defined in H&S Code section 1569.655, to mean "rate increases due to unavoidable and unexpected costs that financially obligate the licensee..."

Factual Basis:

This regulation amendment and handbook reference are adopted for the purpose of clarity and consistency and to necessitate the implementation of SB 1898, which added H&S Code section 1569.655. This statute defines "nonrecurring lump-sum assessments as rate increases due to unavoidable and unexpected costs that financially obligate the licensee. In lieu of the lump-sum payment, all increases in rates shall be to the monthly rate amortized over a 12-month period."

Second Final Modification:

Following the public hearing, the California Department of Social Services (CDSS) is making a change to this section for clarity purposes.

The CDSS is adding "in *relevant* part" to make clear that the handbook reference to H&S Code section 1569.655(b) not the statute in its entirety, but only the portion that is specific to "nonrecurring lump-sum assessments."

Section 87101(p)(3)

Specific Purpose:

This regulation is numbered Section 87101(p)(3) and is adopted for the purpose of clarity and consistency to define "Preadmission Fee," as defined in H&S Code section 1569.651(e).

Factual Basis:

It is necessary to adopt this regulation in order to implement SB 1898, which added H&S Code section 1569.651(e). This statute defines preadmission fee to mean "an application fee, processing fee, admission fee, entrance fee, community fee or other fee, however designated, that is requested or accepted by a licensee of a residential care facility for the elderly prior to admission."

Section 87101(p)(4) through Section 87101(p)(6)

Specific Purpose/Factual Basis:

These regulations have been renumbered Section 87101(p)(4) through Section 87101(p)(6) for the purpose of continuity and numerical pagination.

Section 87101(r)(3)

Specific Purpose:

This regulation is adopted to add a definition for representative to provide clarity and consistency with statute.

Factual Basis:

It is necessary to adopt this regulation in order to implement SB 211, which added H&S Code section 1569.880. This statute references, but does not define, representative. This regulation seeks to define representative as "an individual who has authority to act on behalf of the resident including, but not limited to, a conservator, guardian, person authorized as agent in the resident's valid advance health care directive, the resident's spouse, registered domestic partner or family member, a person designated by the resident or other surrogate decision maker designated consistent with statutory and case law."

Section 87101(r)(4) through Section 87101(r)(5)

Specific Purpose/Factual Basis:

These regulations have been renumbered Section 87101(r)(4) through Section 87101(r)(5) for the purpose of continuity and numerical pagination.

Section 87101(r)(6)

Specific Purpose:

This regulation is amended to update the definition of responsible person to align with definition of "representative" in 87101(r)(3) .

Factual Basis:

It is necessary to amend this regulation to align the "responsible person" definition with the "representative" definition. These terms are used interchangeably in statute and regulation, but in practice are referring to the same group of individuals. This amendment is also deleting reference to "placement agency" as a responsible person, as that is not an appropriate role for a placement agency. Through promulgation of these regulations, a definition is provided for representative.

Section 87101(r)(7)

Specific Purpose/Factual Basis:

This regulation has been renumbered for the purpose of continuity and numerical pagination.

Section 87101(u)(1)(B)(2)(iii)

Specific Purpose/Factual Basis:

This regulation has been numbered to correct prior error in numbering sequence, from 87101(u)(B)(2)(iv) to 87101(u)(B)(2)(iii), for the purpose of continuity and roman numerical pagination.

Section 87101(u)(2)(A)

Specific Purpose/Factual Basis:

This regulation is amended to add the word "an" and to amend the section reference number, 87101(c)(2) to 87101(c)(3), for the purpose of continuity in numerical pagination.

Section 87464(f)(1) and Handbook

Specific Purpose/Factual Basis:

This regulation is adopted to introduce and add Section 87464(f)(1) and to add Handbook provisions that pertain to H&S Code section 1569.2(b). This regulation also is added for the purpose of clarity and consistency in defining the minimum basic services that shall be included as specified in H&S Code section 1569.312(a), which provides that RCFEs must provide basic services that include care and supervision.

Second Final Modification:

Following the public hearing, CDSS is making a change to this section and the corresponding handbook reference to H&S Code section 1569.2 for consistency purposes.

The CDSS is updating the citation for the definition of "care and supervision" in H&S Code section 1569.2 from Subdivision (b) to Subdivision (c). The H&S Code section 1569.2 was amended as a result of AB 601 (Chapter 628, Statutes of 2015) and due to the passage of that bill, the numbering for that section was amended.

Section 87464(f)(1) through Section 87464(f)(6)

Specific Purpose/Factual Basis:

Sections 87464(f)(1) through 87464(f)(6) are renumbered to Sections 87464(f)(2) through 87464(f)(7) to accommodate the addition of Subsection 87464(f)(1) for the purpose of continuity and numerical pagination.

Section 87507(a)

Specific Purpose:

This regulation is amended to add a reference to the definition of admission agreement as referenced in Section 87101(a). This amendment also strikes the words "and that" and "responsible person or conservator," and adds the words "or the" and "representative," as defined in Section 87101(r)(4) and as referenced in H&S Code section 1569.880.

Factual Basis:

It is necessary to amend this regulation for the purpose of clarity and consistency with the requirements of H&S Code section 1569.880, which references "representative" and

requires the resident or representative to sign the admission agreement, not both, to ensure consistency with current RCFE regulations.

Sections 87507(a)(1), (a)(1)(A) and (a)(1)(B)

Specific Purpose:

These regulations are to adopt for the purposes of clarity and to make consistent specific RCFE requirements in the text of the admission agreement as defined in H&S Code section 1569.882.

Factual Basis:

It is necessary for the purposes of clarity and consistency to adopt these regulations in order to implement SB 211 (2003), which added H&S Code sections 1569.882(a) and (b). The H&S Code section 1569.882 defines specific text requirements of the admission agreement, i.e., "The text of the Admission Agreement shall be in black type of not less than 12-point type size, on plain white paper and shall appear on one side of the paper only. It should be written in clear, coherent and unambiguous language using common and everyday meanings." Further, H&S Code section 1569.882 states that the admission agreement shall be appropriately divided and captioned.

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity and consistency purposes.

The CDSS is adding the phrase "including any attachments or modifications" to Section 87507(a)(1) to ensure that the admission agreement in its entirety meets all the requirements contained in Sections 87507(a)(1)(A)-(B).

The CDSS is adding a reference to "understandable" to Section 87507(a)(1)(B) to accompany the other requirements related to readability of the admission agreement. In addition to the admission agreement being required to be "written in clear, coherent, and unambiguous language, using words with common and everyday meanings...", and being "...appropriately divided with each section appropriately titled" the admission agreement will also be required to be "understandable" (i.e. a level generally understood by the targeted population, including the resident and the resident's representative). This requirement will make the admission agreement more reader-centered, helping ensure that the resident and their representative, if any, will be able to understand terms and conditions they are agreeing to when they sign the admission agreement.

Section 87507(b)

Specific Purpose:

This amendment is for the purpose of clarity and consistency regarding the most current revision date for the LIC 9158 form, as amended in November 2004 (11/04).

Factual Basis:

This amendment is for the purposes of clarity and consistency regarding the current version of the Telecommunications Device Notification form LIC 9158 reference. Form LIC 9158 was revised with a current version date of November 2004 (11/04). Revisions to this form were made in 10/02 and 11/04. Revisions made since the 5/97 date referenced in regulation include: (1) reference to the original form to be provided to the client/client representative and a copy of the form to be placed in the client/resident file; (2) adding check boxes to identify Adult Day Program and Residential Care Facility for the Chronically Ill facility types; (3) deleting term "by the telephone company;" (4) adding California in reference to Public Utilities Code; (5) adding "qualified" in reference to state or federal agency; (6) adding "...pursuant to Section 2881 of the Public Utilities Code,..."; (7) updating reference from "local telephone company" to "California Telephone Access Program at 1-800-806-1191;" (8) updating reference to "Client Signature" to "Client/Resident Signature;" (9) adding "if any" after "Conservator/Responsible Party/Authorized Representative Signature;" (10) updating statute language for the California Public Utilities Code sections 2881 (a) and (c); and (11) deleting triplicate distribution information as form is now only available online. This amendment makes this form reference consistent with the current version and date that appears on the Community Care Licensing Division (CCLD) website.

Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is adding the phrase "...in accordance with the Public Utilities Code sections 2881(a) and (c)" to the end of the last sentence to clarify what constitutes "otherwise disabled."

Section 87507(c)

Specific Purpose:

This regulation is amended to (1) add the word "admission" as a subject for purposes of clarity; (2) strike the word "such;" (3) strike reference order of the words "dated and signed" and replace this reference with the words "signed and dated;" (4) strike reference to "and" to replace with the term "or;" (5) add "representative, if any;" and (6) strike out "responsible person or conservator." For purposes of clarity and consistency in pagination the former Section 87507(e) is renumbered to 87507(c).

Factual Basis:

It is necessary to amend this regulation in order to implement SB 211 (2003) and comply with the specific language and words adopted in H&S Code section 1569.887(a).

Section 87507(d)

Specific Purpose:

Current regulation in Subsection (d), which addresses the posting of additional services available through the facility to be purchased by residents, is repealed because it is superseded by H&S Code section 1569.884(c), which is more specific, requiring a facility to provide a list of charges to the resident or the resident representative, as well as acknowledgement of additional charges, that is signed and dated by the resident or their representative and attached to the admission agreement. Regulation in current Subsection (f) is renumbered to Subsection (d) for purposes of continuity and pagination in renumbering and amended to add the words "signed and dated" for the purpose of clarity and consistency with H&S Code section 1569.887.

Factual Basis:

It is necessary to repeal current regulation in Subsection (d) because the concept contained therein was superseded by H&S Code section 1569.884(c), which is more specific, requiring a facility to provide a list of charges to the resident or the resident's representative, as well as signed acknowledgment of additional charges that is signed and dated by the resident or the resident's representative and attached to the admission agreement. It is also necessary to amend the regulation renumbered to Subsection (d) in order to implement SB 211 and comply with the specific language and words adopted in H&S Code section 1569.887. This statute requires the original of the initial admission agreement and any subsequent modifications to be signed and dated.

Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is adding a second sentence to this regulation that states "This does not apply to rate increases provided to residents as required pursuant to Health and Safety Code section 1569.655." This amendment makes clear that this regulation does not alter the requirement already set forth in H&S Code section 1569.655, which requires specified notice be made regarding rate increases, but does not require a signature of the resident or the resident's representative.

Second Final Modification

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is repealing reference to retaining original "of the initial" admission agreement as this is unclear. The regulation will retain reference to "original signed and dated admission agreement" which meets the intent of the regulation related what the licensee must retain in the resident's file.

The CDSS is adding a second sentence to this regulation that states "This does not apply to rate increases which have specific notification requirements as specified in Health and Safety Code section 1569.655." The phrase "This does not apply to rate increases provided to residents pursuant to..." was originally added, but is now being repealed for clarity purposes. This amendment makes clear that this regulation does not alter the requirement already set forth in H&S Code section 1569.655, which requires specified notice be made regarding rate increases, but does not require a signature of the resident or the resident's representative.

Section 87507(e)

Specific Purpose:

This regulation is amended for purposes of clarity and consistency with H&S Code section 1569.887(c) to do the following: (1) add the words "signed and dated;" (2) add the words "and all subsequent signed and dated modifications;" (3) to strike the word "and" and add the word "or;" (4) to strike the words "responsible person or conservator" and replace it with the word "representative;" and (5) clarify that the documents need to be provided "immediately upon signing and additional copies furnished upon request." Section 87507(e) amends the language as noted above and replaces the

former Section 87507(f)(1). The renumbering is for purposes of clarity and pagination in numbering.

Factual Basis:

It is necessary to amend this regulation in order to implement SB 211 (2003), for purposes of clarity and to make consistent the words, as adopted in H&S Code section 1569.887(c) and to ensure that all applicable documents related to the admission agreement is provided to the resident or resident's representative, if any.

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is adding a reference to "the admission agreement or modification" to make clear what documents must be provided "upon signing." Further, the CDSS is amending this regulation to (1) break up the requirement into two sentences for ease of reading and (2) to clarify that the additional copies that are required to be provided upon request are to the resident or the resident's representative.

Sections 87507(e)(1) and (2)

Specific Purpose:

These regulations are adopted to implement provisions as mandated in SB 211 (2003) and in statutes amended as specified in H&S Code sections 1569.881(a) and (b), pertaining to the availability and posting requirements of the admission agreement, as defined.

Factual Basis:

It is necessary for clarity and consistency to adopt these regulations in order to implement SB 211 (2003), which amended H&S Code sections 1569.881(a) and (b). These statutes require that blank complete copies of the most current admission agreement be immediately made available to the public upon request and that the facility may charge fees (at the cost) for copying or mailing the agreement. These statutes also require that a complete copy of the admission agreement or notice of its availability shall be conspicuously posted in a location in the facility that is accessible to the public view. These proposed regulations clarify that a complete copy of the admission agreement includes modifications and attachments.

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity purposes.

The CDSS is revising the sentence structure in Sections 87507(e)(1) and 87507(e)(2) for clarity. The revised language makes clear the licensee's responsibilities related to providing blank copies of the admission agreement and posting requirements, as specified. The CDSS is adding reference to "approved" admission agreement in Sections 87507(e)(1) and 87507(e)(2) to ensure that the copy of the admission that is provided and posted, as specified, is the version of the admission agreement that has been approved by the CDSS.

The CDSS is repealing reference to "if requested" in the second sentence of Section 87507(e)(1). This requirement permits the licensee to charge fees at cost for copying or mailing the admission agreement, as specified. The addition of "if requested" is unnecessary.

Section 87507(f)

Specific Purpose/Factual Basis:

For purposes of clarity and continuity Section 87507(f) replaces former Section 87507(g), which has been repealed in part and moved as amended to Section 87507(h)(2) in order to implement SB 211 (2003).

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is adding reference to "including all modifications and attachments" to the end of the sentence to clarify that the licensee shall be required to comply with all terms of the admission agreement, which includes all modifications and attachments.

Section 87507(g)

Specific Purpose:

The word "admission" is added as a subject for purposes of clarity and consistency. For purposes of clarity and continuity of subject matter, Section 87507(g) replaces former

Section 87507(c) as amended in order to implement SB 211 (2003) and the requirements specified in H&S Code section 1569.884.

Factual Basis:

It is necessary to amend the language in this regulation for the purpose of clarity, continuity of like subject matter and content required as specified in H&S Code section 1569.884.

Sections 87507(g)(1) and (2)

Specific Purpose:

These regulations are amended to add the reference section that defines basic services and to add the words "items and" to further specify how optional services are to be defined, as amended, in order to implement SB 211 (2003) and the requirements specified in H&S Code section 1569.884(a).

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity and consistency purposes.

The CDSS is repealing reference to "optional" items and services and replacing with a reference to "additional" items and services. The services listed could be referring to any additional service, not just "optional" services. This amendment is consistent with changes made to Sections 87507(g)(3)(B), 87507(g)(3)(B)(1) and 87507(g)(3)(B)(5).

Factual Basis:

It is necessary for purposes of clarity and consistency to amend these regulations in order to implement SB 211 (2003), which amended H&S Code section 1569.884(a).

Section 87507(g)(3)(A)

Specific Purpose:

This regulation is amended to implement the provision under SB 211 (2003) and in statute as specified in H&S Code section 1569.884(a) pertaining to basic services rates, which in statute is referenced as "items and services under a single fee." This regulation also deletes a portion of the sentence "including any exempt income allowance, if the resident agrees to such charge" and moves this language, as amended, to Section 87507(g)(3)(A)(2).

Factual Basis:

It is necessary for clarity and consistency to amend this regulation in order to implement SB 211 (2003) and adopt the provisions as amended in H&S Code section 1569.884(a).

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity and consistency purposes.

The CDSS is adding the sentence "Rate for all basic services which the facility is required to provide in order to obtain and maintain licensure." This sentence makes clear that all basic services - those which a facility is required to provide in order to obtain and maintain a license – must be listed under the basic services payment provisions, as specified. Further, CDSS is adding "including" to the second sentence to mirror the language in Section 87507(g)(3)(B) also related to payment provisions.

Sections 87507(g)(3)(A)(1) and (g)(3)(A)(2)

Specific Purpose:

These regulations are adopted to implement payment provisions as identified in SB 211 (2003) and to adopt the specific provisions in H&S Code section 1569.884. A portion of the previous sentence from Section 87507(g)(3)(A) has been adopted into Section 87507(3)(g)(A)(2).

Factual Basis:

It is necessary to amend this regulation for the purpose of clarity and consistency in order to implement SB 211 (2003), which amended H&S Code section 1569.884(a). This statute requires that a comprehensive description be provided of any items and services provided under a single fee, as specified. This regulation requires a comprehensive description of basic services (items and services provided under a single fee) be provided by requiring all basic services charges to be listed, even if the basic services are charged under a fixed monthly fee and provides that exempt-income-allowance may be included if the resident agrees to the charge.

Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is amending the regulation language in Section 87507(g)(3)(A)(1) to clarify that the licensee shall list in the admission agreement a comprehensive description of all items and services that are provided under a single fee, as specified, not the specific charge for each item under the single fee.

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity purposes.

The CDSS is adopting a new Section 87507(g)(3)(A)(2) to clarify that the basic services payment provisions for all items not included in the single fee also need to be listed, as specified.

The CDSS is renumbering Section 87507(g)(3)(A)(2) to 87507(g)(3)(A)(3).

Section 87507(g)(3)(B)

Specific Purpose:

This regulation is amended for purposes of clarity and consistency to add the words "items and" to topic subject Optional Services, as defined in H&S Code section 1569.884(b).

Factual Basis:

For purposes of clarity and consistency it is necessary to add these words to the regulation in order to implement SB 211 (2003) and the wording used in H&S Code section 1569.884(b).

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity and consistency purposes.

The CDSS is repealing reference to "optional items and services costs" and replacing with reference to "Rate for additional items and services, including:...", which mirrors the language pattern in Section 87507(g)(3)(A) and better reflects the subsections that fall within this section, which could be referring to any additional item or service, not just "optional" services. The amendment related to "additional services" is consistent with changes made to Sections 87507(g)(2), 87507(g)(3)(B)(1) and 87507(g)(3)(B)(5).

Sections 87507(g)(3)(B)(1) through (5) and Handbook

Specific Purpose:

These regulations are adopted for the purpose of clarity and consistency to specify fee and service charges to be included in the admission agreement as specified in H&S Code sections 1569.884(b), (c) and (d).

Factual Basis:

These regulations and handbook reference are adopted for the purposes of clarity and consistency in order to implement SB 211 (2003), which amended H&S Code sections 1569.884(b), (c) and (d). The following is a summary of statutory requirements:

- (1) A comprehensive description and fee schedule for all optional items (those not included in the single fee) and services shall be included.
- (2) A separate charge for an item or service may be assessed only if that charge is authorized by the admission agreement.
- (3) If additional items and/or services were not available at the time the admission agreement was signed, a list of these services and charges shall be provided.
- (4) The acceptance or refusal to purchase optional services shall be signed and dated and be attached to the admission agreement.
- (5) The use of third-party services shall be explained as to how they are related to the resident's service plan.

Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity purposes.

The CDSS is amending the regulation language in Section 87507(g)(3)(B)(1) to clarify that the licensee list in the admission agreement a comprehensive description of and corresponding fee schedule for all items and services not included in the single fee. This regulation is also being amended to add the following sentence: "In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident." This is to clarify that the licensee must provide the resident a monthly statement of additional charges that the resident has incurred beyond what is provided under the single fee.

The CDSS is also amending the regulation language in Section 87507(g)(3)(B)(4) to clarify that the statement, signed by the resident or the resident's representative, if any, is specific to "additional services that were not available at the time the admission

agreement was signed," not necessarily all optional services. Further, the CDSS is repealing reference to "optional" services, as these could be referencing any additional service.

Further, CDSS is repealing the Handbook reference to H&S Code sections 1569.884(a) through (b), as the content of those statutes have been incorporated into Sections 87507(g)(3)(A)(1) and 87507(g)(3)(B)(1).

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity purposes.

The CDSS is further amending the regulation language in Section 87507(g)(3)(B)(1) to clarify that the licensee list in the admission agreement "a comprehensive description of and the corresponding fee schedule for all additional items and services not included in the fees for basic services." The CDSS is repealing reference to "optional" and adding reference to "additional," as the services listed could be any additional service not included in the single fee. The CDSS originally added and is now repealing the second sentence, as this requirement is addressed in Section 87507(g)(3)(H).

The CDSS is adopting Section 87507(g)(3)(B)(3) to require the resident or the resident's representative, if any, to sign and date a "statement acknowledging any additional items and/or services that the resident refused to purchase at the time the admission agreement was signed." This will make clear to all parties which additional services the resident has refused to purchase at the time the admission agreement was signed.

The CDSS is renumbering Section 87507(g)(3)(B)(3) to 87507(g)(3)(B)(4); Section 87507(g)(3)(B)(4) to 87507(g)(3)(B)(5); and Section 87507(g)(3)(B)(5) to 87507(g)(3)(B)(6) for clarity and continuity in numbering and pagination.

Sections 87507(g)(3)(C)(1) through (4)

Specific Purpose:

These regulations are adopted for the purpose of clarity and consistency in order to implement SB 1898 (2002), which adopted H&S Code sections 1569.651(a) through (d) to specify that fees charged prior to and after admission shall be clear, as specified in statute.

Factual Basis:

It is necessary for clarity and consistency with statute to add these regulations in order to implement SB 1898 (2002), which adopted H&S Code sections 1569.651(a) through (d). This statute requires that for licensees that require preadmission fees, they must meet specified notice and refund requirements - that only one preadmission fee may be charged except in the case of those recipients under the State Supplementary Program for the Aged, Blind and Disabled. In addition, the licensee shall not require, request or accept any funds that constitute a deposit against any possible damages.

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for consistency purposes.

The CDSS is amending the regulation to correct a typographical error. "Preadmission" included a hyphen that is being deleted.

Section 87507(g)(3)(D)

Specific Purpose:

This regulation is amended for purposes of clarity and consistency with statute by renumbering the former Section 87507(g)(3)(C), which referenced "payor" to Section 87507(g)(3)(D) for purposes of clarity and continuity in numbering and pagination and to add the term "... of all items and services" as it relates to H&S Code section 1569.884 to ensure the admission agreement reflects who is responsible for payment. This amendment also renumbers the former Section 87507(g)(3)(C) to Section 87507(g)(3)(D) for the purposes of clarity and continuity in numbering and pagination.

Factual Basis:

It is necessary to amend the language in this regulation for the purpose of clarity and consistency as defined in H&S Code section 1569.884 and to implement the requirements of SB 211 (2003) into regulations.

Sections 87507(g)(3)(E) and 87507(g)(3)(F)

Specific Purpose/Factual Basis:

For the purposes of clarity and continuity in numbering pagination, these regulations have been renumbered from former Sections 87507(g)(3)(D) and (E) to Sections 87507(g)(3)(E) and (F).

Sections 87507(g)(3)(G) and (g)(3)(H)

Specific Purpose:

These regulations are adopted to clarify and to implement the provisions of SB 211 (2003), which amended H&S Code section 1569.884(b), specifying the requirements of billing and charges in the admission agreement as defined in statute.

Factual Basis:

It is necessary for purposes of clarity and consistency in implementing the requirements of SB 211 (2003) to adopt these regulations which were amended by H&S Code section 1569.884(b). This statute requires a comprehensive description of billing payment and procedures and an itemized monthly statement that lists all separate charges to be provided.

Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is amending the regulation language in Section 87507(g)(3)(H) to clarify that the admission agreement shall include a provision "indicating" that an itemized monthly statement shall be provided, as specified, to the resident or resident's representative, if any. This amendment is necessary to make clear that the initial admission agreement does not need to include an itemized monthly statement, rather that the admission agreement indicate that one will be forthcoming.

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity purposes.

The CDSS is further amending the regulation language in Section 87507(g)(3)(H) to clarify that the admission agreement shall include a provision "indicating" that an

itemized monthly statement that lists all separate charges incurred by the resident "that are collected by the facility" shall be provided, as specified, to the resident or resident's representative, if any. This amendment is necessary to make clear that the initial admission agreement does not need to include an itemized monthly statement, rather that the admission agreement indicate that one will be forthcoming specific to any charges that are collected by the facility.

Section 87507(g)(4)

Specific Purpose:

It is necessary for clarity and consistency with H&S Code section 1569.655(a) to amend this regulation to reflect a 60 day requirement of notification of any rate or rate structure change to residents as amended. The previous requirement for notification of basic rate changes was 30 days. This regulation specifies "rate or rate structure" as to apply to the licensees' fees, not fees for optional services that are provided by individuals, professionals and organizations under a separate fee-for-service arrangement with residents, as H&S Code section 1569.655(a) specifically excludes those. This regulation is also amended to move the words "as soon as the facility is notified" to the middle of the sentence for clarity and ease of reading.

Factual Basis:

It is necessary for purposes of clarity and consistency to amend this regulation in order to implement the provisions of SB 1898 (2002), which amended H&S Code section 1569.655(a). This statute requires that if a licensee makes any increases in rate or rate structures for service(s) the licensee shall provide no less than 60 days prior written notification to the resident(s).

Section 87507(g)(4)(A)

Specific Purpose:

This regulation is amended to add the word "admission" as a subject to the word "agreement" for purposes of clarity and consistency.

Factual Basis:

This amendment is added for the purpose of clarity and consistency regarding subject matter in regulations, i.e., admission agreement. This amendment has no other substantive effect on these regulations.

Section 87507(g)(4)(B) and Handbook

Specific Purpose:

This regulation and Handbook reference are adopted to implement the provisions in SB 1898 (2002), which added H&S Code section 1569.655 and the provisions in SB 1662 (2004), which added H&S Code section 1569.657 pertaining to rate change(s) requirements in regulation.

Factual Basis:

It is necessary for purposes of clarity and consistency in order to implement SB 1898 (2002), which added H&S Code section 1569.655 and SB 1662 (2004), which added H&S Code section 1569.657, to adopt this regulation. These statutes provide the specific conditions under which a licensee may increase or change the rate(s) in the admission agreement. It is also necessary for purposes of clarity and consistency at the discretion of CDSS to add this Handbook provision that specifies the statute requirements in H&S Code sections 1569.655 and 1569.657.

In summary, specific requirements of H&S Code section 1569.655 include:

- (1) Sixty days prior written notice for any basic rate increase. This does not include rate increases due to the level of care or optional services.
- (2) A nonrecurring lump-sum assessment cannot be charged. In lieu of the lump-sum assessment, the assessment can be amortized over a 12-month period.
- (3) The licensee to meet the requirements for SSI/SSP rate increases.
- (4) This section does not apply to licensees who have obtained a certificate of authority to offer continuing care contracts.

In summary, specific requirements of H&S Code section 1569.657 include:

- (1) For a level of care increase, a written notice of rate increase be provided within two business days after providing care. The notice is to include a detailed explanation of the additional services and itemization of charges.
- (2) This does not apply to any resident who is under the SSI/SSP program.
- (3) This section does not apply to licensees who have obtained a certificate of authority to offer continuing care contracts.

Section 87507(g)(5)(A)

Specific Purpose:

This amendment is necessary for the purpose of clarity in correcting the referenced regulation from Section 87612(a) to Section 87223, Relocation of Resident, as renumbered.

Factual Basis:

It is necessary for purposes of clarity to update this regulation due to the renumbering of the regulation referenced, Relocation of Resident (Section 87223).

Second Final Modification:

Following the public hearing, CDSS is making changes to this section for clarity and consistency purposes.

The CDSS is renumbering Section 87507(g)(5)(A) to Section 87507(g)(5)(B) for clarity and continuity in numbering and pagination.

The CDSS is adopting Section 87507(g)(5)(A) and Handbook reference for clarity and consistency purposes. This regulation and Handbook reference are being adopted to implement the provision of AB 261 (2013), which amended H&S Code section 1569.884(h), requiring the admission agreement to include specified information related to refunds in the event of a resident's death. This statute requires the admission agreement to include the facility's policy concerning refunds, including conditions under which a refund for advanced monthly fees will be returned in the event of the resident's death, pursuant to H&S Code section 1569.652.

The CDSS is adopting Section 87507(g)(5)(A)(1) for clarity purposes. This regulation is being adopted to implement a provision of AB 261 (2013), which added H&S Code section 1569.652(d) regarding notification of the facility's policy regarding contract termination upon the death of a resident and refunds. This statute requires the licensee to notify the "resident's responsible or other individual or individuals as identified in the admission agreement or attachment, written notice of the facility's policy regarding contract termination upon death and refunds." This regulation will further require the licensee to provide written notice, as specified, to the "individual or entity contractually responsible for the payment of the resident's fees" if that person is not also the "resident's responsible person or other individual or individuals as identified in the admission agreement or attachments." This is to ensure that person contractually responsible for paying the resident's fees is provided notice regarding

fees that are assessed while the deceased resident's personal property remains in the living unit.

Section 87507(g)(5)(B) et seq.

Specific Purpose:

These regulations are adopted for the purpose of clarity and consistency to implement the provisions of AB 949 (2007), which added H&S Code section 1569.682(a) regarding refund provisions of prepaid monthly fees.

Factual Basis:

It is necessary for purposes of clarity and consistency to adopt these regulations in order to implement the provisions of AB 949 (2007), which added H&S Code section 1569.682(a). This statute requires a licensee of a RCFE, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in H&S Code section 1569.19 or a change of use of the facility pursuant to CDSS' regulations, to follow specified procedures. It also is necessary to adopt these regulations to require the specifics as added and defined in H&S Code section 1569.886(d).

This statute requires RCFE admission agreements to include the responsibilities of the licensee and the rights of the resident when a facility evicts residents pursuant to H&S Code section 1569.682.

Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is amending regulation language in Section 87507(g)(5)(B)(1) to clarify that the licensee shall refund any prepaid monthly fees, as specified, if a licensee forfeits their license upon the sale or transfer of the facility "resulting in resident's transfer." This amendment is necessary to make clear that if a resident remains in the facility after the facility is sold or license is transferred to a new licensee, they would not be entitled to a refund of their prepaid monthly fees.

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is renumbering Section 87507(g)(5)(B) to Section 87507(g)(5)(C) for clarity and continuity in numbering and pagination.

The CDSS is further amending Section 87507(g)(5)(C)(1) to clarify that the licensee shall refund any prepaid monthly fees, as specified, if a licensee forfeits their license upon the sale or transfer of the facility resulting in resident's transfer "...as specified in Health and Safety Code section 1569.682(a),..." This amendment is necessary to make clear that if a resident remains in the facility after the facility is sold or license is transferred to a new licensee, they would not be entitled to a refund of their prepaid monthly fees.

Sections 87507(g)(5)(C) and (C)(1)

Specific Purpose:

These regulations are adopted for the purposes of clarity and consistency in order to implement AB 949 (2007), which added H&S Code section 1569.682(a)(7) regarding refund provisions for prepaid monthly fees as specified.

Factual Basis:

It is necessary for clarity and consistency to adopt these regulations in order to implement AB 949 (2007), which added H&S Code section 1569.682(a)(7). This statute requires a licensee to refund to the resident or his/her representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated if the resident gives notice five days before leaving the facility. Otherwise, the statute requires the licensee to pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated. It is also necessary to adopt these regulations in order to implement AB 949 (2007), which added H&S Code section 1569.886(d). This statute, H&S Code section 1569.886(d), requires RCFE admission agreements to include the responsibilities of the licensee and the rights of the resident when a facility evicts residents pursuant to H&S Code section 1569.682.

Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is amending regulation language in Sections 87507(g)(5)(C) and (g)(5)(C)(1) and adding Section 87507(g)(5)(C)(2) to clarify that a refund of prepaid monthly fees shall be given for any condition specified in Sections 87507(g)(5)(B)(1)-(2). This

amendment is necessary to be consistent with H&S Code section 1569.682, which applies specifically to the circumstances listed in Sections 87507(g)(5)(B)(1)-(2).

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity purposes.

The CDSS is renumbering Section 87507(g)(5)(C) to Section 87507(g)(5)(D) for clarity and continuity in numbering and pagination. References (B)(1) and (B)(2) have been updated to reflect (C)(1) and (C)(2) consistent with these numbering changes.

Section 87507(g)(5)(D) et seq.

Specific Purpose:

These regulations are adopted for purposes of clarity and consistency to implement the provisions specified in SB 141 (2005) and AB 949 (2007) respectively and as identified and defined below in statutes as they specifically pertain to preadmission fee refunds.

Factual Basis:

It is necessary for purposes of clarity and consistency in implementing SB 141 (2005) to adopt Section 87507(g)(5)(D) to add the requirements, as specified in H&S Code section 1569.651, which addresses preadmission fee refunds.

It is necessary for purposes of clarity and consistency in implementing SB 141 (2005) to adopt Section 87507(g)(5)(D)(1) et seq. to add the requirements of H&S Code section 1569.651(g) to require that an applicant or the applicant's representative shall be entitled to a 100 percent refund of a preadmission fee if the applicant decides not to enter the facility prior to the facility's completion of a preadmission appraisal, or if the facility fails to provide full written disclosure of the preadmission fee charges and refund conditions.

It is necessary for purposes of clarity and consistency in order to implement SB 141 (2005), to add Section 87507(g)(5)(D)(2) et seq. and to add the specific requirements defined and added by H&S Code sections 1569.651(h)(1) through 1569.651(h)(5). These statutes require preadmission fees in excess of five hundred dollars (\$500) to be refunded in accordance to specified refund amounts and specified periods of time of residence by the resident.

It is necessary for purposes of clarity and consistency in order to implement AB 949 (2007), to add Section 87507(g)(5)(D)(3) et seq. and to add the specific requirements defined and

added by H&S Code sections 1569.651(i)(1)(A) through (D), 1569.651(i)(2), 1569.682(a)(6)(A)(i) through (iv) and 1569.682(a)(6)(B). These statutes require that if a resident of a RCFE is evicted as a result of the forfeiture of a license or change of use of the facility, the resident or the resident's representative shall be entitled to a refund of preadmission fees in excess of five hundred dollars (\$500) in accordance with specified refund amounts and periods of time. It is also necessary to add this regulation in order to implement AB 949 (2007), which added H&S Code section 1569.886(d). This statute requires RCFE admission agreements to include the responsibilities of the licensee and the rights of the resident when a facility evicts residents pursuant to H&S Code section 1569.682.

It is necessary for clarity and consistency to adopt Section 87507(g)(5)(D)(3)(c) in order to implement AB 949 (2007), which added H&S Code sections 1569.651(i)(3) and 1569.682(a)(6)(C). These statutes require that preadmission fee refunds shall be paid within 15 days of issuing an eviction notice, if a resident is evicted pursuant to requirements in H&S Code section 1569.682. The H&S Code section 1569.682(a)(6)(C) also allows a resident, in lieu of a preadmission fee refund, to request that the licensee provide a credit toward the resident's monthly fee obligation in an amount equal to the preadmission fee refund.

Final Modification:

Following the public hearing, CDSS is making a change to this section for consistency purposes.

The CDSS is amending Section 87507(g)(5)(D)(3)(b) to reference "paid preadmission fees" instead of "prepaid admission fees" and to broadly reference H&S Code section 1569.525(f), which is consistent with the Handbook reference that follows this regulation.

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity and consistency purposes.

The CDSS is renumbering Section 87507(g)(5)(D) to Section 87507(g)(5)(E) for clarity and continuity in numbering and pagination.

The CDSS is amending language in Sections 87507(g)(5)(E)(2)(a)-(c) and Sections 87507(g)(5)(E)(3)(a)(ii)-(iv) for clarity purposes. The phrase "in excess of \$500" is being added to each of these regulations to make clear that it is the portion of the preadmission fee that is "in excess of \$500" that is eligible to be calculated for a refund

when determining the refund amount for circumstances described in Sections 87507(g)(5)(E)(2)(a)-(c) and Sections 87507(g)(5)(E)(3)(a)(ii)-(iv).

The CDSS is amending regulation language in Section 87507(g)(5)(E)(3)(a) to clarify that the licensee shall refund any prepaid monthly fees, as specified, if a licensee forfeits their license upon the sale or transfer of the facility "...resulting in resident's transfer, as specified in H&S Code section 1569.682(a),..." This amendment is necessary to make clear that if a resident remains in the facility after the facility is sold or license is transferred to a new licensee, they would not be entitled to a refund of their prepaid monthly fees.

The CDSS is amending Section 87507(g)(5)(E)(2) to update the cross reference from Section 87507(g)(5)(D)(1) to Section 87507(g)(5)(E)(1).

The CDSS is amending Section 87507(g)(5)(E)(3) to update the cross reference from Section 87507(g)(5)(D)(1) to Section 87507(g)(5)(E)(1).

Handbook Section 87507(g)(5)(D)(3)(b)

Specific Purpose/Factual Basis:

This Handbook reference has been added for the purpose of clarity, consistency and ease of access by the Licensing Program Analyst (LPA), responsible for enforcement in the CCLD, to the referenced H&S Code section 1569.525(f) in Section 87507(g)(5)(D)(3)(b). Providing statute in the regulation as "Handbook" material is at the discretion and formatting preference/style of CDSS. Handbook material is for the ease of reference material and is not "cited" by LPA staff within CCLD for enforcement purposes.

Second Final Modification:

Following the public hearing, CDSS is making a change to this section for clarity and consistency purposes.

The CDSS is amending this Handbook reference by renumbering from Section 87507(g)(5)(D)(3)(B) to Section 87507(g)(5)(E)(3)(B) for clarity and continuity in numbering and pagination.

Section 87507(g)(6)

Specific Purpose:

This regulation is amended to strike the word "That," begin the sentence with the word "The" and to strike the words "has the" for purposes of clarity and ease of reading.

Factual Basis:

It is necessary for purposes of clarity and ease of reading to amend this regulation based on the authority and discretion of CDSS.

Section 87507(g)(7) and Handbook

Specific Purpose:

This provision is amended for clarity and consistency to implement the amendments in H&S Code section 1569.313. The amendments in Handbook include striking the word "that" and adopt the words "The facility's" and "concerning family visits and communication," as well as adding the word "client." Section 87507(g)(7) and handbook reference are renumbered from the prior Section 87507(c)(9).

Factual Basis:

It is necessary for purposes of clarity and consistency in numbering pagination and to amend the Handbook reference for this regulation to ensure clarity and consistency with the amended H&S Code section 1569.313.

Section 87507(g)(8)

Specific Purpose:

This regulation is amended to strike the word "which" and add the word "that" for the purpose of clarity and readability. Section 87507(c)(8) is renumbered from Section 87507(c)(7) for purposes of numbering pagination.

Factual Basis:

This regulation is amended for the purpose of clarity, consistency and for ease of readability and to provide consistency in the pagination of numbering.

Sections 87507(g)(8)(A) and (B)

Specific Purpose:

These regulations are adopted to implement the provisions of SB 211 (2003) and for the purposes of clarity and consistency with the amendments in H&S Code section 1569.885(a) requiring facility policies to be adopted as specified.

Factual Basis:

It is necessary for purposes of clarity and consistency to implement the provisions of SB 211 (2003) and to adopt these regulations as specified in statute H&S Code section 1569.885(a). These statutes require the admission agreement to indicate that facility rules must be reasonable, that there is a facility procedure for suggesting changes to facility rules and that the policies shall not violate any applicable rights, laws or regulations.

Section 87507(g)(9)

Specific Purpose:

This regulation is adopted for purpose of clarity and consistency to implement SB 211 (2003) and to adopt statute in H&S Code section 1569.885(b), which requires the admission agreement to specify that a copy of the facility grievance procedure shall be made available to the resident or his or her representative.

Factual Basis:

It is necessary to for purposes of clarity and consistency to implement SB 211 (2003), which added H&S Code section 1569.885(b). This statute requires the admission agreement to specify that a copy of the facility grievance procedures shall be made available to the resident and his or her representative.

Section 87507(g)(10)

Specific Purpose:

This regulation is added as specified in H&S Code section 1569.886(a) to include provisions that pertain to involuntary transfer or eviction of residents.

Factual Basis:

This regulation is added for purposes of clarity and consistency to implement SB 211 (2003) and to add regulation as specified in H&S Code section 1569.886(a) to specifically address the requirements regarding involuntary transfer or eviction of residents.

Section 87507(g)(10)(A)

Specific Purpose:

This regulation is amended to do the following: (1) To strike the word "Those" and add the word "The;" (2) To strike the word "specified" and add the word "listed;" and (3) To strike the word "which" and to add the word "that" for purposes of clarity and consistency with statute H&S Code section 1569.886(a). Additionally, Subsection (g)(10)(A) is renumbered and amended from Subsection (c)(8).

Factual Basis:

It is necessary for purposes of clarity and consistency to implement SB 211 (2003) and to add regulation as specified in H&S Code section 1569.886(a) to specifically address the requirements regarding involuntary transfer or eviction of residents as defined.

Section 87507(g)(10)(B)

Specific Purpose:

This regulation is added for clarity and consistency in implementing the provision of SB 211 (2003) and to add this regulation as required in H&S Code section 1569.886(a) specifically to the grounds under state law or regulation that allow for an involuntary transfer or eviction of residents, as well as specifying that grounds shall not be included that are not specified under state law or regulation.

Factual Basis:

This regulation is adopted for purposes of clarity and consistency to implement SB 211 (2003), which added H&S Code section 1569.886(a). This statute prohibits admission agreements from including any ground for involuntary transfer or eviction of the resident unless those grounds are specified under state law or regulation.

Section 87507(g)(10)(C)

Specific Purpose:

This regulation is added for clarity and consistency to implement provisions of SB 211 (2003) and to comply with H&S Code section 1569.886(b) pertaining to the justification wording to be exactly as shown in the applicable state law or regulation that permits the eviction of a resident.

Factual Basis:

This regulation is added for purposes of clarity and consistency to implement provisions of SB 211 (2003), which added H&S Code section 1569.886(b). This statute requires the admission agreement to word the justification(s) for eviction exactly as shown in the applicable state law or regulation as specified.

Sections 87507(g)(10)(D) through (F)

Specific Purpose:

These regulations are added for clarity and consistency to implement the provision of SB 211 (2003) and as specified in H&S Code section 1569.886(c), pertaining to an explanation of resident's rights to notice prior to an involuntary transfer, discharge, eviction or the involuntary transfer of residents.

Factual Basis:

It is necessary for the purposes of clarity and consistency in order to implement SB 211 (2003) to add these regulations as required by H&S Code section 1569.886(c). This statute requires admission agreements to include an explanation of the resident's rights with regards to involuntary transfer, discharge or eviction, resident's appeal procedures and a description of relocation assistance offered by the facility.

Section 87507(g)(10)(G) and Handbook

Specific Purpose:

This regulation and handbook reference is added for the purpose of clarity and consistency to implement AB 949 (2007). This section is to also adopt regulations required by H&S Code section 1569.884(j) pertaining to the rights of the resident and the responsibilities of the licensee regarding facility closure, relocation evaluations and

assistance and providing notice when a licensee evicts a resident as specified in H&S Code sections 1569.682 and 1569.683.

Factual Basis:

It is necessary for purposes of clarity and consistency to implement provisions of AB 949 (2007) and to add regulations required by H&S Code section 1569.884(j). This statute requires admission agreements to include an explanation of the facility's responsibility to prepare resident relocation evaluations and closure plans and to provide eviction notices pursuant to H&S Code section 1569.682. It is also necessary to include Handbook provisions that reference H&S Code sections 1569.682 and 1569.683 at the discretion and department standard in formatting in Title 22 regulations. These Handbook provisions are added for purposes of clarity, consistency and ease of use. The H&S Code section 1569.682, added by AB 949 (2007), annotates licensee's responsibilities and residents' rights in the event of a resident transfer due to license forfeiture or a facility change of use. The H&S Code section 1569.683 was added by SB 781 (2009) and annotates licensee's responsibilities and residents' rights in the event of the eviction of a resident.

Section 87507(g)(11)

Specific Purpose/Factual Basis:

This regulation, Section 87507(g)(11), is renumbered from previous Section 87507(g)(10) for the purpose of clarity, consistency and ease of use with pagination in numbering of these regulations.

Section 87507(g)(12)

Specific Purpose:

This regulation is added for clarity and consistency to implement a provision of SB 211 (2003), which requires the admission agreement inform a resident of their right to contact CDSS, the long-term care ombudsman, or both, regarding grievances at the facility.

Factual Basis:

It is necessary for purpose of clarity and consistency in order to implement SB 211 (2003), which added H&S Code section 1569.885(c). This statute requires the admission agreement to inform a resident of their right to contact CDSS, long-term care ombudsman, or both, regarding grievances against the facility.

Section 87507(h)

Specific Purpose:

This regulation is added for clarity and consistency to implement the provisions of SB 211 (2003), which pertains to the terms and conditions which may not be contained in admission agreements.

Factual Basis:

It is necessary for purposes of clarity and consistency, set forth in SB 211 (2003), to add this regulation specifically to prohibit provisions from admission agreements as specified.

Section 87507(h)(1)

Specific Purpose:

This regulation is added for clarity and consistency to implement the provisions of SB 211 (2003), which specify terms and conditions that may not be contained in admission agreements.

Factual Basis:

It is necessary for clarity and consistency in order to implement SB 211 (2003) and to adopt into regulations the specific prohibitions in H&S Code section 1569.880(b). The adoption of this regulation prohibits admission agreements from including any provision that is prohibited from being included in admission agreements.

Section 87507(h)(2)

Specific Purpose:

This regulation is added for clarity and consistency to implement SB 211 (2003) and to adopt the prohibitions in H&S Code section 1569.883(a). The adoption of this regulation prohibits admission agreements from including unlawful waivers of facility liability for the health and safety or personal property of residents. This regulation also consolidates the portion of regulations moved from former Section 87507(g).

Factual Basis:

It is necessary for clarity and consistency to add this regulation in order to implement the provisions of SB 211 (2003) and to adopt into regulation the requirements of H&S Code section 1569.883(a). This statute makes it unlawful for admission agreements to include any waivers of facility liability for the health, safety or personal property of residents. Additionally, this regulation adds and consolidates a portion of former Section 87507(g), which stated that "No written or oral contract with any other person shall release the licensee from responsibility for provision of safe and healthful facilities, equipment, and accommodations."

Section 87507(h)(3)

Specific Purpose:

This regulation is added for clarity and consistency to implement the provisions of SB 211 (2003) and to adopt the prohibitions specified in H&S Code section 1569.883(b) requiring that admission agreements shall not include any provision(s) that the facility knows or should know is deceptive or unlawful under state or federal law.

Factual Basis:

It is necessary for the purposes of clarity and consistency to implement SB 211 (2003) and to add regulation as required in H&S Code section 1569.883(b), prohibiting admission agreements from including any provision(s) that the facility knows or should know is deceptive or unlawful under state or federal law. "Applicable" is added as a qualifier to clarify this prohibition.

Final Modification:

Following the public hearing, CDSS is making a change to this section for consistency purposes.

The CDSS is amending this regulation to correct a typographical error. "Under applicable" appears as one word and should be listed as two words.

Section 87507(h)(4)

Specific Purpose:

This regulation is added for clarity and consistency to implement the provisions of SB 211 (2003) and to add to regulation the requirements specified in statute H&S Code section 1569.885(a).

Factual Basis:

It is necessary for purposes of clarity and consistency to implement SB 211 (2003) and to add this regulation to adopt statute in H&S Code section 1569.885(a). This statute prohibits admission agreements from including facility rules that violate any right set forth in applicable laws and regulations, which include Title 22 section 87468 (Personal Rights) and the Residential Care Facility for the Elderly Act (H&S Code section 1569 et seq.).

Section 87507(i)

Specific Purpose:

This regulation is being amended to add the word "admission" for the purpose of clarity and consistency with subject matter and amend language to align with AB 261 (2013), specifically to the admission agreement, which includes repealing the following: "be automatically terminated by" and "..., whose relatives shall not be liable for any payment beyond that due at death, unless agreed to in writing or ordered by the court."

Factual Basis:

It is necessary for purposes of clarity and consistency to implement AB 261 (2013), specific to the admission agreement, which prohibits a licensee from requiring advance notice to terminate an admission agreement upon the death of a resident. There is no longer discretion for a licensee and resident to agree in writing to an alternative agreement or authority for the court to impose an alternative agreement.

Section 87507(j)

Specific Purpose/Factual Basis:

This regulation has been renumbered to Section 87507(j) from former Section 87507(i) for the purpose of clarity, consistency and pagination of numbering text.

Section 87507(k)

Specific Purpose:

This regulation is added for clarity and consistency to implement a provision of SB 211 (2003), which requires the admission agreement to be reviewed at the time of a compliance visit and in response to a complaint involving the admission agreement.

Factual Basis:

It is necessary for purpose of clarity and consistency in order to implement SB 211 (2003), which added H&S Code section 1569.887(d), which requires CDSS to review that admission agreement during a compliance visit and in response to a claim involving the admission agreement.

Section 87507(l)

Specific Purpose:

This regulation is added for clarity and consistency to implement provisions of SB 211 (2003) and AB 179 (2005), which requires the admission agreement to include a copy of applicable resident's rights, including information on the reporting of suspected or known elder and dependent adult abuse, as set forth in H&S Code section 1569.889.

Factual Basis:

It is necessary for purpose of clarity and consistency in order to implement SB 211 (2003), which added H&S Code section 1569.885(d) and AB 179 (2005), which added H&S Code section 1569.885(e). These statutes require that the admission agreement include a copy of applicable resident's rights and further specify that those rights shall include information on the reporting of suspected or known elder and dependent adult abuse, as set forth in H&S Code section 1569.889.

Section 87706(a)(3)

Specific Purpose:

This regulation is being amended to update a cross-reference citation.

Factual Basis:

This amendment is necessary for clarity and consistency to update a cross-reference citation that will change through the promulgation of this regulation package. Section 87706(a)(3) references Section 87507(e), but that section is being renumbered to Section 87507(c). Other changes made to the former Section 87507(e) are discussed above in Section 87507(c).

Handbook Section 87706(a)(5)

Specific Purpose/Factual Basis:

This Handbook reference has been added for the purpose of clarity, consistency and ease of access by the LPA, responsible for enforcement in CCLD, to the referenced H&S Code section 1569.628 in Section 87706(a)(5). This statute was added as a result of AB 540 (2003). Providing statute in the regulation as "Handbook" material is at the discretion and formatting preference/style of CDSS. Handbook material is for the ease of reference material and is not cited by LPA staff within CCLD for enforcement purposes.

b) Identification of Documents Upon Which Department Is Relying

The following documents were relied upon:

- AB 261, Chapter 290, Statutes of 2013;
- AB 949, Chapter 686, Statutes of 2007;
- H&S Code sections 1569.2(b), 1569.312(a), 1569.525(f);
- SB 141, Chapter 250, Statutes of 2005;
- AB 179, Chapter 456, Statutes of 2005;
- SB 211, Chapter 409, Statutes of 2003;
- SB 540, Chapter 322, Statutes of 2003;
- SB 781, Chapter 617, Statutes of 2009;
- SB 1662, Chapter 401, Statutes of 2004; and
- SB 1898, Chapter 557, Statutes of 2002.

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

d) Statement of Alternatives Considered

These regulations are developed in response to legislation, including SB 1898, Chapter 557, Statutes of 2002; SB 211, Chapter 409, Statutes of 2003; SB 540, Chapter 322, Statutes of 2003; SB 1662, Chapter 401, Statutes of 2004; SB 141, Chapter 250, Statutes of 2005; AB 179, Chapter 456, Statutes of 2005; AB 949, Chapter 686, Statutes of 2007; SB 781, Chapter 617, Statutes of 2009; and AB 261 Chapter 290, Statutes of 2013, which amended requirements related to admission agreements.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact on Business

The changes reflected in these regulations codify statutes that have been in effect as far back as 2002, with the majority of bills being passed between 2002 and 2009. The most recent bill included in this package was passed in 2013 and reflects a single change in the regulations proposed. The CDSS has not received any facts, evidence, documents, testimony or other evidence to indicate there has been any significant, statewide adverse economic impact on business related to these laws. In addition, proposed regulations are implementing state law. If there were to be any adverse economic impact on business it would be a result of the passage of the enacting laws, not the regulations themselves. As such, CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Economic Impact Assessment

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Creation or Elimination of Jobs Within the State of California

These proposed regulations codify statutes that have been in effect as far back as 2002, with the majority of bills being passed between 2002 and 2009. The most recent bill included in this package (AB 261) was passed in 2013 and reflects a single change in the

regulations proposed. Bills enacted through this regulatory action include: SB 1898, Chapter 557, Statutes of 2002; SB 211, Chapter 409, Statutes of 2003; SB 540, Chapter 322, Statutes of 2003; SB 1662, Chapter 401, Statutes of 2004; SB 141, Chapter 250, Statutes of 2005; AB 179, Chapter 456, Statutes of 2005; AB 949, Chapter 686, Statutes of 2007; SB 781, Chapter 617, Statutes of 2009; and AB 261, Chapter 290, Statutes of 2013. The proposed regulations are implementing state laws. If there were to be any impact on the creation or elimination of jobs within the State of California, it would be a result of the passage of the enacting laws, not the regulations themselves. Therefore, CDSS has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

These proposed regulations codify statutes that have been in effect as far back as 2002, with the majority of bills being passed between 2002 and 2009. The most recent bill included in this package (AB 261) was passed in 2013 and reflects a single change in the regulations proposed. Bills enacted through this regulatory action include: SB 1898, Chapter 557, Statutes of 2002; SB 211, Chapter 409, Statutes of 2003; SB 540, Chapter 322, Statutes of 2003; SB 1662, Chapter 401, Statutes of 2004; SB 141, Chapter 250, Statutes of 2005; AB 179, Chapter 456, Statutes of 2005; AB 949, Chapter 686, Statutes of 2007; SB 781, Chapter 617, Statutes of 2009; and AB 261, Chapter 290, Statutes of 2013. The proposed regulations are implementing state laws. If there were to be any impact on the creation of new businesses or the elimination of existing businesses within the State of California, it would be a result of the passage of the enacting laws, not the regulations themselves. Therefore, CDSS has determined that this regulatory proposal will not have an impact on the creation or elimination of existing businesses within the State of California.

The Expansion of Businesses Currently Doing Business Within the State of California

These proposed regulations codify statutes that have been in effect as far back as 2002, with the majority of bills being passed between 2002 and 2009. The most recent bill included in this package (AB 261) was passed in 2013 and reflects a single change in the regulations proposed. Bills enacted through this regulatory action include: SB 1898, Chapter 557, Statutes of 2002; SB 211, Chapter 409, Statutes of 2003; SB 540, Chapter 322, Statutes of 2003; SB 1662, Chapter 401, Statutes of 2004; SB 141, Chapter 250, Statutes of 2005; AB 179, Chapter 456, Statutes of 2005; AB 949, Chapter 686, Statutes of 2007; SB 781, Chapter 617, Statutes of 2009; and AB 261, Chapter 290, Statutes of 2013. The proposed regulations are implementing state laws. If there were to be any impact on the expansion of businesses currently doing business

within the State of California, it would be a result of the passage of the enacting laws, not the regulations themselves. Therefore, CDSS has determined that this regulatory proposal will not have an impact on the expansion of businesses currently doing business within the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety and the State's Environment

The benefits of the regulatory action to the health and welfare of California residents, worker safety and the state's environment are as follows: (1) providing residents and their families with information necessary to make informed choices related to basic services, rate increases and fees as provided in a RCFE Admission Agreement; (2) clarifying admission agreement provisions that are prohibited; (3) requiring specific language to be included in admission agreements; and (4) clarifying responsibilities of RCFE licensees. This regulatory action maintains the intent of the Legislature in enacting the authorizing statutes to establish laws to protect the right of residents in RCFEs and to provide residents and licensees with clear information that is easy to understand.

g) Benefits Anticipated from Regulatory Action

This regulatory action will benefit families in California in need of services provided at RCFEs, as these amendments provide them with information necessary to make informed choices related to basic services, rate increases and fees as provided in the Admission Agreement, and clarifies provisions that are prohibited. These regulations require specific language to be included in the admission agreement and responsibilities of licensees. These regulation amendments maintain the intent of the Legislature in enacting the authorizing statutes to establish laws to protect the right of residents in RCFEs and to provide residents and licensees with clear information that is easy to understand.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.

i) Testimony and Response

These regulations were considered as Item # 1 at the public hearing held on February 3, 2016, in Sacramento, California. Written testimony was received from the following during the 45-day comment period from December 18, 2015 to 5:00 p.m. February 3, 2016.

Comments from the California Assisted Living Association (CALA)

1. Section 87507(b)

Comment:

The CALA would like clarity on what other disabilities, besides deaf or hearing-impaired, would need to receive the Telecommunications Device Notification and/or if CDSS intends for this regulation to mean deaf or hearing-impaired.

Response:

The CDSS appreciates this comment and is amending the regulation to clarify reference to "otherwise disabled" is "in accordance with Public Utilities Commission Code section 2881(a) and (c)," which is listed on and consistent with the LIC 9158 form.

The regulation is amended to read:

(b) The licensee shall complete and maintain in the resident's file a Telecommunications Device Notification form (LIC 9158, ~~5/97~~11/04) for each resident whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled in accordance with Public Utilities Commission Code section 2881(a) and (c).

2. Section 87507(c)

Comment:

The CALA recommends amending this section to clarify that attachments to the admission agreement do not need to be signed and dated.

Response:

The CDSS appreciates this comment and suggested language but is not amending the regulation at this time. Currently, language in this section requires attachments to the admission agreement be signed and dated, as specified, and CDSS does not intend to alter this requirement through this regulatory action.

3. Section 87507(d)

Comment:

The CALA believes that providers have the right to modify the fee schedule without resident approval and believes the modified fee schedule would not need to be signed by the resident and, subsequently, would not need to be kept in his or her file.

Response:

The CDSS appreciates this comment and suggested language and agrees that this requirement does not apply to rate increases, which has its own statutory requirements.

The regulation is amended to read:

~~(f)(d)~~The licensee shall retain in the resident's file the original of the initial signed and dated admission agreement and all subsequent signed and dated modifications. This does not apply to rate increases provided to residents as required pursuant to Health and Safety Code section 1569.655.

4. Section 87507(f)

Comment:

The CALA suggests changing the wording in this section to clarify that the licensee only needs to comply with terms and conditions which apply to licensees.

Response:

The CDSS appreciates this comment and suggested language but is not amending the regulation at this time. The suggestion is to amend regulation text that is not being changed through this regulatory action.

5. Section 87507(g)(3)(A)(1)

Comment:

The CALA believes that this section should include language that simply lists the basic services, not charges, which are included in the fixed monthly fee of the admission agreement services.

Response:

The CDSS appreciates this comment and the suggested language and agrees that the regulation language in Sections 87507(f)(3)(A)(1) and 87507(f)(3)(B)(1) should be amended to provide clarity specific to what the admission agreement needs to specify regarding basic services and optional services. The Handbook reference to H&S Code sections 1569.884(a)-(b) are also being repealed as the content of those statutes have been incorporated into Sections 87507(g)(3)(A)(1) and 87507(g)(3)(B)(1).

The regulations are amended to read:

(A) Basic services rate(s), ~~including any exempt income allowance, if the resident agrees to such charge.~~

1. A comprehensive description of any items and services provided under a single fee, such as monthly fee for room, board, and other items and services ~~All basic services charges shall be listed, even if the basic services are charged under a fixed monthly fee.~~
2. Exempt-income-allowance may be included if the resident agrees to such charge.

(B) Optional items and services costs.

1. A comprehensive description of and the corresponding fee schedule for all optional items and services not included in the basic services rate single fee shall be included listed. In addition,

the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.

6. Section 87507(g)(3)(B)(4)

Comment:

The CALA believes that the proposed regulatory language would expand the provision to require acceptance or refusal of optional services, which would not work in practice.

Response:

The CDSS appreciates this comment and agrees that the regulation language should be amended to provide clarity regarding optional services that were not available at the time the admission agreement was signed.

The regulation is amended to read:

4. A statement acknowledging the acceptance or refusal to purchase additional ~~optional~~ services that were not available at the time the admission agreement was signed, which shall be signed and dated by the resident or the resident's representative, if any, shall be attached to the admission agreement.

7. Section 87507(g)(3)(F)

Comment:

The CALA suggested deleting this section because the language suggests that a resident can refuse to disclose that they are an SSI/SSP recipient. If licensees are not allowed to know if residents are on SSI/SSP, then they are not given the opportunity to exercise that right. And, many providers have not included such a provision in their agreements and CDSS has not voiced concern.

Response:

The CDSS appreciates this comment but is not amending the regulation at this time. Currently, language in this section allows the resident to refuse to disclose their funding source. The CDSS does not intend to alter this requirement through this regulatory action.

8. Section 87507(g)(3)(H)

Comment:

The CALA believes that this proposed regulation misstates the law in Section 1569.884 and would incorrectly require including an itemized monthly statement in the initial admission agreement.

Response:

The CDSS appreciates this comment and the suggested language and agrees that the regulation language should be amended to make clear that the admission agreement shall "indicate" that an itemized monthly statement will be provided to the resident, as specified.

The regulation is amended to read:

- (H) A provision indicating that an ~~An~~ itemized monthly statement that lists all separate charges incurred by the resident shall be provided to the resident or the resident's representative, if any.

9. Section 87507(g)(5)(B)(1)

Comment:

The CALA suggests clarifying in this section that only the residents who have to be transferred in the event a forfeiture of license upon the sale or transfer of the facility must be given a refund of their prepaid monthly fees.

Response:

The CDSS appreciates this comment and the suggested language and agrees that the regulation language should be amended to clarify that this provision applies to specified circumstances that result in the resident's transfer from the facility.

The regulation is amended to read:

1. If a licensee forfeits the license upon the sale or transfer of the facility resulting in the resident's transfer, the licensee surrenders the license, or the licensee abandons the facility.

10. Section 87507(g)(5)(C)

Comment:

The CALA believes this proposed regulation misstates the law in Section 1569.682, which only applies to forfeiture of license or change of use. It would allow a resident to terminate his/her agreement on five days' notice and obtain a refund of any prepaid fees beyond that point. However, under circumstances outside of forfeiture of license or change of use, RCFE residents must provide 30 days' notice. Therefore, CALA suggests altering this proposed requirement to align with the statutory requirements as stated in Sections 1569.682(a) and 1569.682(a)(7).

Response:

The CDSS appreciates this comment and the suggested language and agrees that the regulation language in Sections 87507(g)(5)(C) et seq. should be amended to make clear what circumstances require a refund as specified in the newly renumbered Sections 87507(g)(5)(C)(1)-(2).

The regulations are amended to read:

(C) The ~~A~~ refund of ~~any~~ prepaid monthly fees for any condition listed in (B)(1) and (B)(2) above shall be given as specified below:

1. ~~if~~ If the resident provides notice five days before the resident leaves the facility, the ~~refund shall be a~~ proportional daily amount of any prepaid monthly fee(s), ~~and~~ shall be refunded at the time the resident leaves the facility and the unit is vacated.

~~2.~~ If the resident does not provide the above 5-day notice the licensee shall refund a proportional daily amount of any prepaid monthly fee(s) within seven days from the date that the resident leaves the facility and the unit is vacated.

Comments from the Community Residential Care Association of California (CRCAC)

1. Section 87507(g)(5)

Comment:

Section 87507(g)(5)(B) describes the specific circumstances under which a refund must be given, including forfeiting of the license by a licensee upon sale or transfer of the facility; the licensee surrenders the license; the licensee abandons the facility, or if there is a change of facility. Therefore, according to CRCAC, Section 87507(g)(5)(C) needs to reference these specific conditions or this regulation may be interpreted to mean that all refunds of prepaid monthly fees must be given within these timeframes regardless of the reason the resident is leaving the facility.

Response:

The CDSS appreciates this comment and the suggested language and agrees that the regulation language in Sections 87507(g)(5)(C) et seq. should be amended to make clear what circumstances require a refund as specified in the newly renumbered Sections 87507(g)(5)(C)(1)-(2).

The regulations are amended to read:

(C) The ~~A~~ refund of ~~any~~ prepaid monthly fees for any condition listed in (B)(1) and (B)(2) above shall be given as specified below:

1. ~~if~~ If the resident provides notice five days before the resident leaves the facility, the ~~The refund shall be a~~ proportional daily amount of any prepaid monthly fee(s); ~~and~~ shall be refunded at the time the resident leaves the facility and the unit is vacated.

~~2.~~ If the resident does not provide the above 5-day notice the licensee shall refund a proportional daily amount of any prepaid monthly fee(s) within seven days from the date that the resident leaves the facility and the unit is vacated.

2. Section 87507(h)(3)

Comment:

The CRCAC states that there should be a space between the words "under" and "applicable."

Response:

The CDSS appreciates this comment and suggested language and agrees that the regulation language should be amended to correct the typographical error.

The regulation is amended to read:

- (3) Any provision that the facility knows or should know is deceptive or unlawful ~~underapplicable~~ under applicable state or federal law.

Comments from 6Beds, Inc.

1. Section 87507(b)

Comment:

Besides deafness or hearing-impairment, 6Beds, Inc. would like clarity on what other disabilities, if any, would call for a resident to receive the Telecommunications Device Notification. Otherwise, the organization recommends the language "or otherwise disabled" be removed from the regulation text.

Response:

The CDSS appreciates this comment and is amending the regulation to clarify reference to "otherwise disabled" is "in accordance with Public Utilities Commission Code section 2881(a) and (c)." which is listed on and consistent with the LIC 9158 form.

The regulation is amended to read:

- (b) The licensee shall complete and maintain in the resident's file a Telecommunications Device Notification form (LIC 9158,

~~5/97~~11/04) for each resident whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled in accordance with Public Utilities Commission Code section 2881(a) and (c).

2. Section 87507(c)

Comment:

Regarding the language in this section, 6Beds, Inc. recommends changing it to clarify that the attachments to the Admission Agreement must be referenced and included with the agreement, but not signed and dated separately.

Response:

The CDSS appreciates this comment but is not amending the regulation at this time. Currently, language in this section requires attachments to the admission agreement be signed and dated, as specified, and CDSS does not intend to alter this requirement through this regulatory action.

3. Section 87507(d)

Comment:

This section states that subsequent modifications to the admission agreement are signed and dated. However, RCFE licensees have the right to modify the fee schedule without resident approval. Therefore, 6Beds, Inc. recommends modifying the language to clarify that this section does not apply to modified fee schedules.

Response:

The CDSS appreciates this comment and agrees that this requirement does not apply to rate increases, which has its own statutory requirements.

The regulation is amended to read:

~~(f)~~(d)The licensee shall retain in the resident's file the original of the initial signed and dated admission agreement and all subsequent signed and dated modifications. This does not apply to rate increases provided to residents as required pursuant to Health and Safety Code section 1569.655.

4. Section 87507(f)

Comment:

Regarding the language in this section, 6Beds, Inc. recommends it should be modified so that the language is consistent with its intention, which is to ensure licensee compliance with promises made by the licensee.

Response:

The CDSS appreciates this comment but is not amending the regulation at this time. The suggestion is to amend regulation text that is not being changed through this regulatory action.

5. Section 87507(g)(3)(A)(I)

Comment:

It is recommended by 6Beds, Inc. that the proposed regulation be modified to clarify that what is required to be listed are all basic services, not their charges, that are included in a fixed monthly fee. Therefore, the word "charges" should be removed.

Response:

The CDSS appreciates this comment and agrees that the regulation language in Sections 87507(f)(3)(A)(1) and 87507(f)(3)(B)(1) should be amended to provide clarity specific to what the admission agreement needs to specify regarding basic services and optional services. The Handbook reference to H&S Code sections 1569.884(a) through (b) are also being repealed as the content of those statutes have been incorporated into Sections 87507(g)(3)(A)(1) and 87507(g)(3)(B)(1).

The regulations are amended to read:

(A) Basic services rate(s); ~~including any exempt income allowance, if the resident agrees to such charge.~~

1. A comprehensive description of any items and services provided under a single fee, such as monthly fee for room, board and other items and services ~~All basic services charges shall be listed, even if the basic services are charged under a fixed monthly fee.~~

2. Exempt-income-allowance may be included if the resident agrees to such charge.

(B) Optional items and services costs.

1. A comprehensive description of and the corresponding fee schedule for all ~~optional~~ items and services not included in the ~~basic services rate single fee~~ shall be ~~included~~ listed. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.

6. Section 87507(g)(3)(B)(4)

Comment:

It is recommended by 6Beds, Inc. that the proposed regulation be modified to appropriately reflect that a statement acknowledging the acceptance or refusal to purchase an optional service only be required for services that were not originally available at the time the admission agreement was signed.

Response:

The CDSS appreciates this comment and agrees that the regulation language should be amended to provide clarity regarding optional services that were not available at the time the admission agreement was signed.

The regulation is amended to read:

4. A statement acknowledging the acceptance or refusal to purchase additional ~~optional~~ services that were not available at the time the admission agreement was signed, which shall be signed and dated by the resident or the resident's representative, if any, shall be attached to the admission agreement.

7. Section 87507(g)(3)(F)

Comment:

According to 6Beds, Inc., this proposed regulation presents practical challenges. Many small-home RCFEs serving six or fewer persons accept residents on SSI/SSP. There are also regulations that pertain specifically to residents on SSI/SSP. The proposed regulation found in Section 87507(g)(3)(C)(3) states that SSI/SSP residents shall not be required to pay any form of preadmission fee. If licensees are not allowed to know whether a resident is on SSI/SSP, they are not given a fair opportunity to stay in compliance with regulations that apply specifically to SSI/SSP residents. Therefore, 6Beds, Inc. recommends removing this regulation.

Response:

The CDSS appreciates this comment but is not amending the regulation at this time. Currently, language in this section allows the resident to refuse to disclose their funding source. The CDSS does not intend to alter this requirement through this regulatory action.

8. Section 87507(g)(3)(H)

Comment:

It is recommended by 6Beds, Inc. that the proposed regulation be modified to reflect that the admission agreement indicate that the resident shall receive a monthly statement itemizing all separate charges, if any, incurred by the resident and clarify that "all separate charges" refer only to those separate charges that are assessed by the facility.

Response:

The CDSS appreciates this comment and the suggested language and agrees that the regulation language should be amended to make clear that the admission agreement shall "indicate" that an itemized monthly statement will be provided to the resident, as specified.

The regulation is amended to read:

(H) A provision indicating that an ~~An~~-itemized monthly statement that lists all separate charges incurred by the resident shall be provided to the resident or the resident's representative, if any.

9. Section 87507(g)(5)(B)(l)

Comment:

According to 6Beds, Inc., the phrase "If a licensee forfeits the license upon the sale or transfer of the facility" is confusing. The 6Beds, Inc. recommends that CDSS clarify what is meant by the language and how it would be applied in practice.

Response:

The CDSS appreciates this comment and agrees that the regulation language should be amended to clarify that this provision applies to specified circumstances that result in the residents transfer from the facility.

The regulation is amended to read:

1. If a licensee forfeits the license upon the sale or transfer of the facility resulting in the resident's transfer, the licensee surrenders the license or the licensee abandons the facility.

10. Section 87505(g)(5)(C)

Comment:

It is recommended by 6Beds, Inc. that the proposed regulation be modified to reflect that the five day notice and corresponding refund applies only in the event of forfeiture of license or change of use of the facility.

Response:

The CDSS appreciates this comment and agrees that the regulation language in Sections 87507(g)(5)(C) et seq. should be amended to make clear what circumstances require a refund as specified in the newly renumbered Section 87507(g)(5)(C)(1) through (2).

The regulations are amended to read:

(C) The ~~A~~ refund of ~~any~~ prepaid monthly fees for any condition listed in (B)(1) and (B)(2) above shall be given as specified below:

1. ~~if~~ If the resident provides notice five days before the resident leaves the facility, the ~~refund shall be a~~ proportional daily amount of any prepaid monthly fee(s); ~~and~~ shall be refunded at the time the resident leaves the facility and the unit is vacated.

~~2.~~ If the resident does not provide the above 5-day notice the licensee shall refund a proportional daily amount of any prepaid monthly fee(s) within seven days from the date that the resident leaves the facility and the unit is vacated.

j) 15-Day Renotice Statement

Pursuant to Government Code (GC) section 11347.1, a 15-day renotice and complete text of modifications made to the regulations were made available to the public following the public hearing. The following testimony was received as a result of the 15-day renotice.

Comments from CALA

1. Section 87507(g)(3)(F)

Comment:

The CALA suggests deleting this regulation or provide clarification that requires residents to affirm that they can pay the full resident rate.

Response:

The CDSS appreciates this comment but is not amending the regulation at this time. Currently, language in this section allows the resident to refuse to disclose their funding source. The CDSS does not intend to alter this requirement through this regulatory action.

Comments from the California Advocates for Nursing Home Reform (CANHR)

1. Section 87507(d)

Comment:

The CANHR believes that the proposed amendment to Section 87507(d), the sentence "This does not apply to rate increases provided to residents as required pursuant to Health and Safety Code section 1569.655," is unnecessary and confusing and, therefore be removed.

Response:

The CDSS appreciates this comment but does not agree that the reference to rate increases in this section should be repealed. The CDSS does agree that the regulation should be amended to make clear that although a rate increase does not require a resident or their representative's signature, a licensee is required to meet specific notification requirements as specified in H&S Code section 1569.655.

The regulation is amended to read:

~~(f)(d)~~The licensee shall retain in the resident's file the original ~~of the initial~~ signed and dated admission agreement and all subsequent signed and dated modifications. This does not apply to rate increases which have specific notification requirements as specified in ~~This does not apply to rate increases provided to residents as required pursuant to Health and Safety Code section 1569.655.~~

2. Section 87507(g)(3)(B)(4)

Comment:

The CANHR believes that the new language in the regulations removes the requirement to have a signed and dated statement of refused additional services at the time the admission agreement is signed per H&S Code section 1569.884(c). Therefore, CANHR proposes amending Subsection (B)(4) and adding (B)(5) to read, "A statement acknowledging the acceptance or refusal to purchase additional services that were not available at the time the admission agreement was signed, which shall be signed and dated by the resident or the resident's representative, if any, shall be attached to the admission agreement." to the regulations.

Response:

The CDSS appreciates this comment and agrees that the requirement for a resident or the resident's representative to sign and date a statement acknowledging the refusal to purchase additional services at the time the admission agreement is signed should be retained.

Section 87507(g)(3)(b)(3) is being added to read:

3. A statement acknowledging any additional items and/or services that the resident refused to purchase at the time the admission agreement was signed, which shall be signed and dated by the resident or the resident's representative, if any, and attached to the admission agreement.

3. Section 87507(g)(5)

Comment:

The CANHR believes that the regulations should include all of the statutorily-required language as set forth in H&S Code section 1569.884 regarding the items that must be included in admission agreements.

Response:

The CDSS appreciates this comment and agrees that regulation language in Section 87507(g)(5) should be added to include the requirement for the admission agreement to include the facility policy regarding refunds, as specified, pursuant to H&S Code section 1569.652.

Section 87507(G)(5)(A) has been added to read:

- A. Facility policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident's death, pursuant to Health and Safety Code section 1569.652.

Comments from 6Beds, Inc.

1. Section 87507(g)(3)(B)(l)

Comment:

The 6Beds, Inc. recommends that the section be clarified that "all separate charges" refer only to those separate charges that are assessed directly by the facility.

Response:

The CDSS appreciates this comment and agrees conceptually that the itemized monthly statement that lists all separate charges incurred by the resident should be specific to those that are "collected by the facility." The requirement to provide this monthly statement in Section 87507(g)(3)(B)(1) is duplicative of the requirement in Section 87507(g)(3)(H). Therefore, the requirement in Section 87507(g)(3)(B)(1) is being repealed, and Section 87507(g)(3)(H) is being amended to indicate that the monthly statement is specific to those charges that are "collected by the facility."

Regulation Section 87507(g)(3)(H) is being amended to read:

(H) A provision indicating that an ~~An~~ itemized monthly statement that lists all separate charges incurred by the resident that are collected by the facility shall be provided to the resident or the resident's representative, if any.

2. Section 87507(g)(3)(H)

Comment:

The 6Beds, Inc. recommends that the section be clarified that "all separate charges" refer only to those separate charges that are assessed directly by the facility.

Response:

The CDSS appreciates this comment and agrees conceptually that an itemized monthly statement that lists all separate charges incurred by the resident should be specific to those that are "collected by the facility." The requirement to provide this monthly statement in Section 87507(g)(3)(H) is duplicative of requirement in

Section 87507(g)(3)(B)(1). Therefore, the requirement in Section 87507(g)(3)(B)(1) is being repealed, and Section 87507(g)(3)(H) is being amended to indicate that the monthly statement is specific to those charges that are “collected by the facility.”

The regulation is being amended to read:

(H) A provision indicating that an ~~An~~ itemized monthly statement that lists all separate charges incurred by the resident that are collected by the facility shall be provided to the resident or the resident’s representative, if any.

3. Section 87507(g)(5)(B)(1)

Comment:

The 6Beds, Inc. recommends that the statement "resulting in the resident's transfer" be changed to "resulting in the resident's involuntary transfer".

Response:

The CDSS appreciates this comment and agrees that the regulation in this section should be amended to make clear the circumstances that require a refund of a prepaid monthly fee as a result of the resident’s transfer, which are those specified in H&S Code section 1569.682(a).

Section 87507(g)(5)(B)(1), which this comment is directed, has been renumbered to 87507(g)(5)(C)(1).

The regulation is amended to read:

1. If a licensee forfeits the license upon the sale or transfer of the facility resulting in the resident’s transfer, as specified in Health and Safety Code section 1569.682(a), the licensee surrenders the license or the licensee abandons the facility.

4. Section 87505(g)(5)(C)

Comment:

The 6Beds, Inc. recommends that the proposed regulation be modified to reflect that the five-day notice and corresponding refund applies only in the event of forfeiture of license or change of use of the facility that result in a resident's involuntary transfer.

Response:

The CDSS appreciates this comment but is not amending the regulation related to this comment.

Section 87507(g)(5)(C), which this comment is directed, has been renumbered to 87507(g)(5)(D).

Section 87507(g)(5)(D) specifies that it is circumstances outlined in Section 87507(g)(5)(C)(1)-(2) that triggers the refund, as specified. Section 87507(g)(5)(C)(1) has been amended to make clear the refund requirement, as specified, are specific to circumstances that result in the resident's transfer "as specified in Health and Safety Code section 1569.682(a)."

j) Second 15-Day Renotice Statement

Pursuant to GC section 11347.1, a second 15-day renotice and complete text of modifications made to the regulations were made available to the public following the public hearing. The following testimony was received as a result of the second 15-day renotice.

Comments from CALA

1. Section 87507(a)(1)(B)

Comment:

The CALA suggests removing the word "understandable" in order to be consistent with statute.

Response:

The CDSS appreciates this comment but is not amending the regulation. The CDSS believes that reference to "understandable" will help ensure that the resident and their representative, if any, will better be able to understand the terms and conditions that they are agreeing to when they sign the admission agreement. While "understandable" is not explicitly referenced in statute, CDSS is exercising its general authority provided pursuant to H&S Code section 1569.30(a) to adopt, amend or repeal regulations "...as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state."

2. Section 87507(g)(3)(B)(3)

Comment:

The CALA believes that this section is burdensome and not consistent with statute. Therefore, they believe it should be deleted.

Response:

The CDSS appreciates this comment but is not repealing the proposed regulation. The CDSS believes this requirement, in conjunction with the requirements set forth in Section 87507(g)(3)(B)(1), will make clear to all parties which additional services the resident has purchased and has refused to purchase at the time the admission agreement is signed. In adding this regulation, CDSS is exercising its general authority provided pursuant to H&S Code section 1569.30(a) to adopt, amend or repeal regulations "...as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state."

6Beds, Inc.

1. Section 87507(a)(1)(B)

Comment:

The 6Beds, Inc. believes that the word "understandable" in this proposed regulation is not consistent with statute and believes adding the word would have an unnecessary degree of subjectivity.

Response:

The CDSS appreciates this comment but is not amending the regulation. The CDSS believes that reference to "understandable" will help ensure that the resident and their representative, if any, will better be able to understand the terms and conditions that they are agreeing to when they sign the admission agreement. While "understandable" is not explicitly referenced in statute, CDSS is exercising its general authority provided pursuant to H&S Code section 1569.30(a) to adopt, amend or repeal regulations "...as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state."

2. Section 87505(g)(3)(B)(3)

Comment:

The 6Beds, Inc. believes that the proposed regulation should be deleted because it is not consistent with the statutory requirement.

Response:

The CDSS appreciates this comment but is not repealing the proposed regulation. The CDSS believes this requirement, in conjunction with the requirements set forth in Section 87507(g)(3)(B)(1), will make clear to all parties which additional services the resident has purchased and has refused to purchase at the time the admission agreement is signed. In adding this regulation, CDSS is exercising its general authority provided pursuant to H&S Code section 1569.30(a) to adopt, amend or repeal regulations "...as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state."